

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the present amendments and following discussion, is respectfully requested.

Claims 14-23 are pending; Claims 14, 17, 19, 20, and 22 are amended; no claims are newly added or canceled herewith. It is respectfully submitted that no new matter is added by this amendment, as support may be found, at least, in the specification at Figure 7 and at page 23, line 27 - page 24, line 2.

In the outstanding Office Action, Claim 19 was rejected under 35 U.S.C. § 101; Claims 14-23 were rejected under 35 U.S.C. § 103(a) as unpatentable over Kim et al. (U.S. Pat. No. 6,470,135, hereafter Kim) in view of Tsukidate (U.S. Pat. No. 6,714,722); Claims 14, 15, 17, 19, and 22 were rejected under 35 U.S.C. § 103(a) as unpatentable over Na et al. (U.S. Pat. No. 6,366,731, hereafter Na) in view of Yoshinobu et al. (U.S. Pat. No. 5,686,954, hereafter Yoshinobu); and Claims 16, 18, 21, and 23 were rejected under 35 U.S.C. § 103(a) as unpatentable over Na in view of Yoshinobu and further in view of Hiroshima et al. (U.S. Pat. No. 5,801,781, hereafter Hiroshima).

REJECTION UNDER 35 U.S.C. § 101

With regard to the rejection of Claim 19 under 35 U.S.C. § 101, that rejection is respectfully traversed. Claim 19 has been amended to recite “wherein at least one of the recording or reproducing apparatus’ records data or reproduces data from the medium in accordance with the configuration of the medium.” Accordingly, it is respectfully requested that this rejection be withdrawn.

MPEP § 2106 discusses statutory subject matter in relation to data structures of a computer readable medium. Particularly, MPEP § 2106 provides,

**A claimed computer-readable medium encoded with a data structure define structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.**

Thus, based on the clear language of this section, Claim 19 is statutory as it defines a functionality which is realized based on the interrelationship of the structure to the medium and recited hardware components.

Further, should the Examiner disagree with the above passage, MPEP § 2106 also states that:

Whenever practicable Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

Applicants respectfully submit that, as noted above, the rejection under 35 U.S.C. § 101 should be withdrawn. However, if the rejection under 35 U.S.C. § 101 is to be maintained, Applicants respectfully request that the Examiner provide an explanation of the rejection in view of the guidelines of MPEP § 2106.

#### REJECTIONS UNDER 35 U.S.C. § 103

With regard to the rejection of Claims 14-23 under 35 U.S.C. § 103(a) as unpatentable over Kim in view of Tsukidate, that rejection is respectfully traversed.

Independent Claims 14, 17, 19, 20, and 22 have been amended to recite that the management area is configured to record first management information including second management information specifying broadcast sources, wherein the first management information is configured to be variable with respect to packet length for each recording, and the second management information is configured to include codes, each code specifying a respective one of the broadcast sources.

As described in the specification at page 26, lines 21-26, for example, it is possible that different broadcast sources may use different sized packets. Thus, recording different codes is useful when one broadcast uses MPEG-TS with conventional 188 byte packets while another broadcast source uses differently sized packets.

At page 4, the outstanding Office Action states that Kim discloses that the management area of the information medium is configured to store packet length information, the packet length information indicating a size of the data packets. However, Kim instead describes that if a predetermined number, for example 20, stream object units are created by repeating the grouping task, the control unit 250 creates and records a stream object unit index number, an accumulated presentation unit index number, an accumulated presentation time, and an accumulated size for the 20 stream object units. The accumulated presentation time and accumulated size for each of 20 stream object units are the presentation time and size accumulated from the start position of the stream object containing the associated stream object units to each of the 20 stream object units, respectively.<sup>1</sup> Thus, from this description, it is evident that Kim describes grouping stream object units and recording a size based on the size of the entire grouping of stream object units.

By contrast, the independent claims recite that the first management information is configured to be variable with respect to packet length for each recording, and the second management information is configured to include codes, each code specifying a respective one of the broadcast sources. Kim in no way discloses or suggests this feature, and it is respectfully submitted that Tsukidate does not remedy the defects identified with regard to Kim.

Specifically, Tsukidate describes that if the user operates the controller or the man-machine interface 21 in a predetermined manner to record the receiving program, the

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<sup>1</sup> Kim, col. 3, lines 50-62.

controller 19 also records the receiving program by simply sending the suitable instructions to the TS packetizer 12 and the TS recorder 13 in step 204. In either case, the TS packetizer 12 packetizes the received packet stream packets in the MPEG-2 standard into a TS packet stream, which is then recorded by the TS recorder 13 in the recording medium 9.<sup>2</sup> As Tsukidate describes that the packet sizes are uniform, Tsukidate necessarily fails to disclose or suggest that the first management information is configured to be variable with respect to packet length for each recording, and the second management information is configured to include codes, each code specifying a respective one of the broadcast sources.

Accordingly, as neither Kim nor Tsukidate, either alone or in combination, discloses or suggests the features of independent Claims 14, 17, 19, 20, and 22, it is respectfully requested that the outstanding rejection of Claims 14-23 be withdrawn.

With regard to the rejection of Claims 14, 15, 17, 19, and 22 under 35 U.S.C. § 103(a) as unpatentable over Na in view of Yoshinobu, that rejection is also respectfully traversed.

As noted above, the independent claims have been amended to recite that the first management information is configured to be variable with respect to packet length for each recording and the second management information is configured to include codes, each code specifying a respective one of the broadcast sources. As admitted in the outstanding Office Action at page 6, Na fails to disclose or suggest a management area. The outstanding Office Action attempts to remedy this admitted deficiency by relying on Yoshinobu.

Figure 12 of Yoshinobu describes that the user table of contents includes a file name, attribute, date, start cluster, length, and link-p. However, Figure 12 does not disclose or suggest that this user table of contents or any other part of the management information includes information such as the first management information that is configured to be variable with respect to packet length for each recording, and the second management

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<sup>2</sup> Tsukidate, col. 7, lines 11-19.

information that is configured to include different codes for different broadcast sources, as recited in the independent claims.

Therefore, as neither Na nor Yoshinobu, either alone or in combination, discloses or suggests the features of independent Claims 14, 17, 19, and 22, it is respectfully submitted that these claims patentably distinguish over the applied combination of Na and Yoshinobu. Likewise, it is respectfully submitted that dependent Claim 15 patentably distinguishes over the combination of Na and Yoshinobu. It is therefore respectfully requested that this rejection be withdrawn.

Moreover, it is respectfully submitted that there is no motivation in the teachings of either Na or Yoshinobu to support the applied combination. Certainly, the Office Action fails to cite to any specific teachings within either reference to support the applied combination. It is therefore respectfully submitted that the combination of Na with Yoshinobu is the result of hindsight reconstruction, and is improper.

With regard to the outstanding rejection of Claims 16, 18, 21, and 23 under 35 U.S.C. § 103(a) as unpatentable over Na in view of Yoshinobu and further in view of Hiroshima, that rejection is also respectfully traversed.

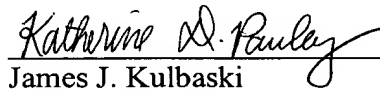
As noted above, neither Na nor Yoshinobu, either alone or in combination, discloses or suggests the features of independent Claims 14, 17, 19, and 22. Because Hiroshima is not relied upon to provide the features identified as deficient within the combination of Na and Yoshinobu, Hiroshima is not substantively addressed herewith.

Therefore, as none of Na, Yoshinobu, or Hiroshima, either alone or in combination, discloses or suggests the features of Claims 16, 18, 21, and 23, it is respectfully requested that this rejection be withdrawn.

Consequently, in view of the foregoing discussion and present amendments, it is respectfully submitted that the application is in condition for allowance. An early and favorable action is therefore respectfully requested.

Respectfully submitted,

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